

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

LISA M. ARCHIBALD,

Plaintiff,

vs.

ANDREW M. SAUL, Commissioner of
the Social Security Administration,

Defendant.

8:19-CV-313

MEMORANDUM AND ORDER

This matter is before the Court upon the plaintiff's Motion for Award of Attorney Fees pursuant to the Equal Access to Justice Act, [28 U.S.C. § 2412\(d\)](#). [Filing 21](#). The defendant does not object to the plaintiff's requested fees and expenses in the amount of \$2,895.05 ([filing 21-2](#)); which represents 13.5 hours of work in 2019 at a rate of \$205.25 per hour, and 0.6 hours of work in 2020 at a rate of \$206.96 per hour.¹ [Filing 22](#).

The Court has determined that the plaintiff was the prevailing party in this action, as the Commissioner's decision was reversed and the case remanded to the Commissioner for further proceedings; that the application for fees was filed in a timely fashion;² and that the position of the

¹ The maximum hourly fee of \$125 specified in [28 U.S.C. § 2412\(d\)\(1\)\(D\)\(2\)\(A\)](#) was adjusted to account for inflation. *See filing 22-1 at 2-3.*

² An Equal Access to Justice Act application based on a district court judgment remanding a case pursuant to sentence four of [42 U.S.C. § 405\(g\)](#) must be filed no later than 30 days after the sentence four judgment has been entered and the appeal period has run such that the judgment is no longer appealable. *See Pottsmith v. Barnhart*, 306 F.3d 526, 527-28 (8th Cir.

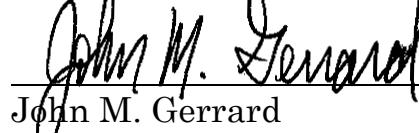
Commissioner was not substantially justified because the administrative law judge made findings that were not supported by substantial evidence. *See Koss v. Sullivan*, 982 F.2d 1226 (8th Cir. 1993). Therefore, the plaintiff is entitled to an award of attorney fees.

IT IS ORDERED:

1. The plaintiff's Motion for Award of Attorney Fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d) (filing 21) is granted.
2. By separate document, the Court shall enter judgment for the plaintiff and against the defendant providing that the plaintiff is awarded attorney fees of \$2,895.05.

Dated this 8th day of June, 2020.

BY THE COURT:


John M. Gerrard
Chief United States District Judge

2002); *see also Shalala v. Schaefer*, 509 U.S. 292, 302 (1993); *Melkonyan v. Sullivan*, 501 U.S. 89, 94-97 (1991).